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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,992	12/19/2001	Duane Girard Uitenbroek	KCC-2122	3688
35844	7590	06/03/2004	EXAMINER	
PAULEY PETERSEN KINNE & ERICKSON 2800 WEST HIGGINS ROAD SUITE 365 HOFFMAN ESTATES, IL 60195			PURVIS, SUE A	
			ART UNIT	PAPER NUMBER
			1734	

DATE MAILED: 06/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/024,992

Applicant(s)

UITENBROEK ET AL.

Examiner

Sue A. Purvis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 29 Mar 2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 4-14, and 16-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Odorzynski (US Patent No. 6,245,050 B1) in view of Vogt et al. (US Patent No. 6,149,638).

Odorzynski discloses a disposable article with an elasticized area. The elastomeric adhesive is applied with conventional adhesive application systems, such as spray nozzles. (Col. 6, lines 13-20.) In Odorzynski, the adhesive can be applied in a number of locations including being applied to the flexible backsheet where the backsheet is then adhered to the topsheet to form an elasticized area which functions as a leg or waist elastic. (Col. 2, lines 27-34; Col. 5, lines 33-67; Col. 6, lines 1-12.) The elastomeric adhesive, because of its properties, averts tensioning against the web being extended.

Odorzynski does not teach having the elastic adhesive being printed as pattern of shapes.

Vogt teaches the adhesive (66) can comprise other patterns not including solid lines of adhesive in the longitudinal direction. For example, adhesive (66) could comprise an angled pattern of adhesives or spaced unconnected areas of adhesive applied by intermittent operation of adhesive applicators or by printing rolls. (Col. 11, lines 38-51.)

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It would have been obvious to one having ordinary skill in the art at the time the invention was made to print the adhesive in Odorzynski, because Vogt teaches that it is known in the art and that applying the adhesive in patterns prevents the adhesive from "locking up" the stretch of the extensible web.

Regarding claims 4, 5, & 8, Odorzynski includes a flexible backsheet (12) made from polyethylene film or a nonwoven web (Col. 2, lines 27-58.)

Regarding claim 6, Odorzynski includes a topsheet layer (14).

Regarding claim 7, the precursor web includes a topsheet (14), backsheet (12), and an absorbent structure in Odorzynski.

Regarding claims 9, 18, and 19, an option in Odorzynski is to have the elasticized areas formed by applying the adhesive to the disposable article in the form of a film where the film can impart barrier properties to the elasticized area formed therewith. (Col. 6, lines 50-61.) Vogt shows shapes of lines and swirls in Figure 5.

Regarding claim 10, the adhesive in Odorzynski is retractable after elongation because that is an elastic property of the adhesive.

Regarding claims 11-14, the adhesive in Odorzynski has a cold flow rate of less than 20% at 54 degF, a viscosity of less than 70,000 cp at 350 degF, an elongation of at least 25 or 50%, and a retroactive force of less than 400 grams force per inch width 90% elongation. (See Abstract.)

Regarding claim 16, spraying, extrusion, or the like can do the printing in Odorzynski. (Col. 6, lines 18-20.)

Regarding claim 17, the web is flexible in more than one direction.

Regarding claim 20, the recitation of the intended use of the claimed invention must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963). Odorzynski in

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view of Vogt meets the limitation of this claim because they teach having the shapes and as such those shapes would provide reinforcement of the precursor web as set forth in the claim.

3. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Odorzynski in view of Vogt as applied to claim 1 above, and further in view of Mack (US Patent No. 4,055,182).

Odorzynski in view of Vogt does not disclose an adhesive application system which uses a heated roller.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to print the adhesive in Odorzynski in view of Vogt with a heated roller, because Odorzynski states that an application system similar to spraying or slot coating can be used in Mack (see col. 3, line 58 through col. 4, line 4) reveals that spraying and printing adhesive onto webs are both well known in the art. Therefore spraying and printing are functionally equivalent alternative expedients. Furthermore, it is within the purview of the artisan to heat the printing roll in Odorzynski in view of Vogt, because a heated roll keeps the adhesive in flowable form versus a more solid form.

Response to Arguments

4. Applicant's arguments with respect to claims 1 and 4-20 have been considered but are moot in view of the new grounds of rejection.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sue A. Purvis whose telephone number is (571) 272-1236. The examiner can normally be reached on Monday through Friday 9am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rick Crispino can be reached on (571) 272-1226. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sue A. Purvis
Primary Examiner
Art Unit 1734

SP
June 1, 2004